

AGENDA

TUSAYAN TOWN COUNCIL MUNICIPAL CODE WORKSHOP

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, December 4, 2013 at 5:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a Meeting and Municipal Code workshop open to the public on Wednesday, December 4, 2013 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting the Town Manager at (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

TOWN COUNCIL MUNICIPAL CODE WORKSHOP

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

2. ROLL CALL

**MAYOR GREG BRYAN
VICE MAYOR AL MONTOYA**

**COUNCILMEMBER BILL FITZGERALD
COUNCILMEMBER JOHN RUETER
COUNCILMEMBER CRAIG SANDERSON**

** One or two Councilmembers may attend by telephone*

3. DISCUSSION OF DRAFT LANGUAGE FOR THE TUSAYAN MUNICIPAL CODE

Chapter 11 – Offenses (continued)

4. DISCUSSION OF PARK RULES

5. MOTION TO ADJOURN

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this 22nd day of November, 2013, at _____ pm in accordance with the statement filed by the Tusayan Town Council

Signature of person posting the agenda

CHAPTER 11 OFFENSES

ARTICLE 11-1

OFFENSES

- 11-1-1 Dangerous Constructions
- 11-1-2 Excavations to be Covered
- 11-1-3 Minors; Curfew
- 11-1-4—Driving or Parking on Another's Property Unlawful
- 11-1-5 Noise (1999-A147)
- 11-1-6 Town Property - Alcohol Use
- 11-1-7 Signs and Banners on Town Property
- 11-1-8 Unsafe Buildings or Structures
- 11-1-9 Reserved
- 11-1-10 911 Emergency Telephone Number System False Reporting
- 11-1-11 Reserved
- 11-1-12 False Alarms
- 11-2 Fireworks

SECTION 11-1-1 DANGEROUS CONSTRUCTIONS

It is unlawful for any person to maintain or allow any signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety. Violation of this section is declared to be a Class 2 misdemeanor.

SECTION 11-1-2 EXCAVATIONS TO BE COVERED

- A. It is unlawful for any person to make any excavation or dig any hole, drain, or ditch in any highway or thoroughfare in the Town without providing a sufficient light at night and a temporary fence or suitable obstruction around or in front of such excavation at all times.
- B. It is unlawful for any person to maintain a well, cellar, pit, or other excavation of more than two feet in depth on any unenclosed lot, without substantial curbing, covering, or protection.
- C. Violation of this section is declared to be a Class 2 misdemeanor.

SECTION 11-1-3 MINORS; CURFEW; LIABILITY OF PARENT

- A. It shall be unlawful for any juvenile under the age of eighteen (18) years to be, remain, loiter in, about, or upon any place in the Town away from the dwelling house or usual place of abode of said juvenile, between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. of the following day; **provided that the provisions of this section do not apply** to said juvenile when:
 - a) accompanied by his or her parent, guardian, or other adult person having the care, custody or control of said juvenile, or

- b) the said juvenile is on an emergency errand, or the said juvenile has been specifically directed to the location or is on reasonable, legitimate and specific business or activity directed or permitted by his parent, guardian or other adult person having the care, custody or supervision of said juvenile. This exception requires that the parent, guardian, or adult have advance knowledge of the whereabouts of the juvenile, and have given consent, and does not apply if the parent, guardian, or adult, when told of the location of the juvenile, does not object.
- B. It is unlawful for the parent or guardian of a person under the age of eighteen years to permit such minor to be away from the minor's dwelling house or usual place of abode in violation of Section A once the parent or guardian has been notified of the violation and permits repeated violations.
- C. Curfew is extended until 12:30 a.m. on Friday and Saturday.
- D. Violation of this section is declared to be a Class 3 misdemeanor.

SECTION 11-1-4 LOITERING

- A. It is unlawful for any person to loiter, drive, or park upon the property during those hours when the person legally entitled to the possession of said property is not present, or if the property is a business, for any purpose other than the normal conduct of trade with that business, or if the property is that of a government agency, for any purpose other than the normal conduct of business with that government agency, without having in his or her possession the written permission of the owner of the property or the person entitled to immediate possession thereof, or the authorized agent of either.
- B. The written permission shall specify the period for which permission is granted, and shall set forth the name of the grantee shall be signed by the grantor, shall state grantor's interest in the property and, if the grantor is not the owner thereof, the owner's name.
- C. Any person loitering, driving, or parking a vehicle described in this section on property shall, upon request of any peace officer, display the written permission issued under the terms of this article.
- D. It is the intent of this section to prevent the unauthorized use of vacant lots, parking lots, or other property, privately or publicly owned areas by persons for unauthorized or illegal purposes which could create a public nuisance or interfere with the comfortable enjoyment of life or property by the entire community or neighborhood or by a considerable number of persons.
- E. No person charged with violating this section shall be convicted and such charge against him or her shall be dismissed if he or she subsequently produces in court the aforesaid written permission.
- F. Violation of this section is declared to be a Class 3 misdemeanor.

SECTION 11-1-5 NOISE

- A. It is hereby declared to be public nuisance, and it is unlawful for any person, to play or permit to be played any music or musical instruments whether played by individuals, orchestra, radio phonograph, music box or other mechanical device or means, any shop operations or other activity in such a loud or unusual manner as to be offensive to the senses, or so as to disturb the slumber, peace and quiet, or otherwise interfere with the comfortable enjoyment of life or property of any person and is no less a nuisance because the extent of the annoyance inflicted is unequal.
- B. It is unlawful to play, operate or use any device known as a sound truck, loud speaker or sound amplifier, radio or any instrument of any kind or character which emits loud and raucous noises and is attached to and upon any vehicle unless such person in charge of such vehicle shall have first applied to and received permission from the Town.

SECTION 11-1-6 TOWN PROPERTY - ALCOHOL USE

Definitions: "*Public Recreation Area*" shall include a Town park, district or regional parks, or areas so designated by the Town Council of the Town Hall complex, such as the adjoining fields or parking lots, or other Town property.

Prohibition on Alcohol Use. It is unlawful for any person to consume, possess, give, or sell any alcoholic beverage within the boundaries of any public recreation area or town-owned property, except private residences within the Town limits, or in a public thoroughfare, except that persons may sell, purchase, or consume beer and/or wine by permit from the Town. A special event license from the Arizona Department of Liquor Control is required. The permit will specify the area and other conditions of use.

- A. Proof of alcohol training from Arizona Department of Liquor Control is required as a condition of the permit.
- B. Signs will be posted stating that no one appearing to be intoxicated will be served
- C. "LAST CALL" promotions are strictly prohibited.

Permit Procedures. The Town Manager will establish permit procedures under this ordinance, except that the Town Council may by motion or resolution determine which events sponsored by the Town will have beer sold under a Town special event license.

Violations and Penalties. Violation of this section is declared to be a Class 1 misdemeanor, punishable by fines up to \$2,500 and 6 months in jail or to the limits as may be amended by State law.

Posting. Signs shall be posted in all public recreation areas warning the public of the provisions of this ordinance.

SECTION 11-1-7 SIGNS AND BANNERS ON TOWN PROPERTY

It is unlawful for any person to place any banner or sign upon any Town property, streetlight pole, traffic signal pole, or utility pole within the Town without first obtaining authorization from the manager or his or her designee. Violation of this section is declared to be a Class 3 misdemeanor.

SECTION 11-1-8 UNSAFE BUILDINGS OR STRUCTURES

Buildings or structures shall be maintained to a level to be safe for use. It is unlawful for any property owner, tenant or occupant to allow any building or structure to reach a state of disrepair as to become dangerous, unsafe, unsanitary, or otherwise unfit for human use as determined by the Town Building Official.

SECTION 11-1-9 RESERVED

SECTION 11-1-10

911 EMERGENCY TELEPHONE NUMBER SYSTEM FALSE REPORTING

A. Definitions. In this section, unless the context otherwise requires:

1. "Emergency" means any situation in which human life or property is in jeopardy and the prompt summoning of aid is essential.

2. "911" means the 911 emergency telephone number system.
- B. Prohibition. It is unlawful for any person to intentionally and willfully dial the 911 emergency telephone number and falsely report a nonexistent emergency or to dial the 911 emergency telephone numbers with the intention to harass, annoy, or otherwise interfere with the intended operation of the 911 emergency telephone number system.

SECTION 11-1-11 RESERVED

SECTION 11-1-12 FALSE ALARMS

- A. It shall be unlawful to allow or cause a false alarm within the Town.
- B. In this article, unless the content otherwise requires:
1. "Alarm" means any mechanical or electrical device or assembly of equipment designed or arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which the police are expected to respond, or designed or arranged to signal the occurrence of a fire or excessive smoke requiring urgent attention and to which a fire department is expected to respond.
 2. "Alarm Company" means any firm, person, partnership, corporation, or entity which has servicing, maintenance, or monitoring duties or responsibilities under the terms of any agreement or arrangement with any alarm user within the corporate limits of the town.
 3. "Alarm user" means any person, firm, corporation, or entity of any kind in control of any building, premises, structure or facility in which or upon which an alarm is maintained.
 4. "False alarm" means an alarm signal to which police or fire department personnel respond with any emergency personnel or equipment when a situation requiring a response by the police or fire department does not in fact exist, and which signal is caused by the inadvertence, negligence, or intentional act or omission of an alarm company or alarm user or a malfunction of the alarm. Excessive or malicious violations of false alarms (more than four times to the same number during a calendar year) will be deemed a Class 2 misdemeanor.
- C. The following shall not be considered false alarms:
1. Alarms caused by the testing, repair, or malfunction of telephone equipment or lines.
 2. Alarms caused by an act of God, including earthquakes, floods, windstorms, thunder or lightning.
 3. Alarms caused by an attempted illegal entry of which there is visible evidence.
 4. Alarms caused by the testing, repair or malfunction of electrical utility equipment or lines.
- D. Any violation of section 11-1-12 shall have the following penalties:
1. A civil sanction in an amount of not more than \$250.00 may be assessed against an alarm user for each false alarm which occurs in any building, premises, structure, or facility owned or controlled by the alarm user;
 2. A civil sanction in an amount of not more than \$250.00 may be assessed against the responsible alarm company for each false alarm which occurs in the event that a false alarm was occasioned due to the manner of installation of the alarm by the responsible alarm company;

A civil sanction in an amount of not more than \$250.00 may be assessed against the responsible alarm company for each false alarm which is occasioned by the failure of the responsible alarm company to properly service, maintain or monitor any alarm within the town.

ARTICLE 11-2

SECTION 11-2-1 FIREWORKS

- Section 11-2-1 Definitions
- Section 11-2-2 Consumer fireworks prohibited; exceptions
- Section 11-2-3 Sale of fireworks
- Section 11-2-4 Posting of signs by persons engaged in the sale of fireworks; civil penalty
- Section 11-2-5 Authority to enforce violations of this article; means of enforcement
- Section 11-2-6 Liability for emergency responses related to use of fireworks; definitions
- Section 11-2-7 Penalty

The following words, terms and phrases, when used in this article, have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All statutory references are to the statutes as they may be amended:

- A. **Consumer fireworks:** those fireworks defined by Arizona revised statutes section 36-1601.
- B. **Display fireworks:** those fireworks defined by Arizona revised statutes section 36-1601.
- C. **Fireworks:** any combustible or explosive composition, substance or combination of substances, or any article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation that is a consumer firework, display firework or permissible consumer firework as defined by Arizona revised statutes section 36-1601.
- D. **Novelty items:** federally deregulated novelty items that are known as snappers, snap caps, party poppers, glow works, snakes, toy smoke devices, sparklers, and certain toys as defined in Arizona revised statutes section 36-1601.
- E. **Permissible consumer fireworks:** those fireworks as defined by Arizona revised statutes section 36-1601, that may be sold within the Town of Tusayan even where the use of those items has been prohibited.
- F. **Supervised public display:** a monitored performance of display fireworks open to the public and authorized by permit by the Tusayan Fire District.

SECTION 11-2-2 CONSUMER FIREWORKS PROHIBITED; EXCEPTIONS

- A. The use, discharge, or ignition of consumer fireworks within the Town limits of the Town of Tusayan is prohibited.
- B. Nothing in this section or article shall be construed to prohibit the use, discharge or ignition of novelty items or the occurrence of a supervised public display of fireworks.
- C. Permits may be granted by the Tusayan Fire District for conducting a properly supervised public display of fireworks. Every such public display of fireworks shall be of such character and so located, discharged or fired, only after proper inspection and in a manner that does not endanger persons, animals, or property. A permit shall not be issued, and may be revoked, during time periods of high fire danger warnings. The Fire District has authority to impose conditions on any permits granted.
- D. Failure to comply with any permit requirements issued by the Fire District is a criminal offense constituting a class two misdemeanor.
- E. Fireworks may not be combined, altered or manipulated in any way outside of the intended use that, in the opinion of the fire district, increases the potential for fire damage or personal injury.

SECTION 11-2-3 SALE OF FIREWORKS

- A. No person shall sell or permit or authorize the sale of permissible consumer fireworks to a person who is under **sixteen** years of age.
- B. No person shall sell or permit or authorize the sale of permissible consumer fireworks in conflict with state law.
- C. No person shall furnish permissible consumer fireworks to a person who is under **sixteen** years of age.
- D. No person who is under **sixteen** years of age shall possess permissible consumer fireworks.
- E. Permits and fees shall be required for the construction, erection, or operation of a business that sells consumer fireworks.

SECTION 11-2-4 POSTING OF SIGNS BY PERSONS ENGAGED IN THE SALE OF FIREWORKS; CIVIL PENALTY

- A. Prior to the sale of permissible consumer fireworks, every person engaged in such sales shall prominently display signs indicating the following:
 - 1. The use of fireworks, except novelty items, as defined by Town of Tusayan code, including permissible consumer fireworks, is prohibited.
 - 2. Consumer fireworks authorized for sale under state law may not be sold to persons under the age of **16**.
- B. Signs required under this section shall be placed at each cash register and in each area where consumer fireworks are displayed for sale.
- C. The Town Manager shall develop regulations concerning the size and color of the required signs.

- D. Any person engaged in the sale of consumer fireworks shall provide a written notice to each individual who purchases consumer fireworks, such notice shall inform the purchaser that the use, discharge, or ignition of consumer fireworks within the Town of Tusayan is prohibited. The notice shall also inform the purchaser of the key requirements and prohibitions contained in this ordinance. The Manager or designee shall develop regulations concerning the size and content of the required notice and develop a model notice.
- E. Any person engaged in the sale of consumer fireworks shall require each purchaser of consumer fireworks to sign a registry indicating the name, address and age of the purchaser.
- F. Failure to comply with subparts a, b, d and e of this section is a criminal offense constituting a class two misdemeanor.

SECTION 11-2-5 AUTHORITY TO ENFORCE VIOLATIONS OF THIS ARTICLE;
MEANS OF ENFORCEMENT

- A. The Town Attorney may issue criminal complaints to enforce this article.
- B. Any person authorized pursuant to this section to issue a civil complaint may also issue a notice of violation specifying actions to be taken and the time in which they are to be taken to avoid issuance of a civil or criminal complaint.
- C. The Town Building Official may issue fire code or permit violations to enforce this article.

SECTION 11-2-6 LIABILITY FOR EMERGENCY RESPONSES RELATED TO
THE USE OF FIREWORKS; DEFINITIONS

- A. A person who uses, discharges or ignites permissible consumer fireworks, or anything that is designed or intended to rise into the air and explode or to detonate in the air or to fly above the ground, is liable for the expenses of any emergency response that is required by such use, discharge or ignition. The fact that a person is convicted or found responsible for a violation(s) of this article is prima facie evidence of liability under this section.
- B. The expenses of an emergency response are a charge against the person liable for those expenses pursuant to Subpart A of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities or not-for-profit entities that incurred the expenses. The person's liability for the expense of an emergency response shall be the amount set forth in existing Town ordinances for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that may be imposed.
- C. For the purposes of this section:
 - 1. "Expenses of an Emergency Response" means reasonable costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident.
 - 2. "Reasonable Costs" include the costs of providing police, fire fighting, rescue and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.
- D. Violation of this section is declared to be a Class 3 misdemeanor.

SECTION 11-2-7 PENALTY

The penalty for violating any prohibition or requirement imposed by the chapter is a class two misdemeanor unless another penalty is specifically provided for in each subsection.